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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/687,133	FREI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher A. Flory	3762	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's Amendment filed 3 August 2006.
2. ☒ The allowed claim(s) is/are 45-66.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 3 August 2006. These drawings are acceptable.

### ***Specification***

2. The changes entered to the specification in the Amendment filed 3 August 2006 fully correct the deficiencies objected to by the examiner in the previous Office action.

### ***Response to Arguments***

3. The cancellation of claims 1-44 is noted.
4. Grounds of support for newly entered claims 45-66 can be found within the original Specification filed 15 October 2003 as outlined on pages 18 and 19 of the Amendment filed 3 August 2006. No new matter is considered to have been added through these claims.

### ***Allowable Subject Matter***

5. Claims 45-66 are allowed.
6. The following is an examiner's statement of reasons for allowance:

In the independent claims 45, 54 and 60 of the instant application, the step of actively determining that the signal from the second electrode contains an artifact and blanking the second channel only when an artifact is detected appears to be a uniquely inventive step. Fischell et al. (US Patent 6,016,449) and Pless (US Patent 6,466,822),

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considered to be the most pertinent art of record, merely blank the sensing channel every time that a stimulation pulse is delivered which, while passively negating signal artifacts in the instances where they do arise, lacks the critical step of actively determining the presence of an artifact post-stimulation as provided for in the instant claims. It is understood that the automatic blanking of Fischell et al. and Pless is provided to avoid overpowering the sensing circuitry rather than to necessarily avoid recording of artifact signals. Because the claims of the instant application require determination of an artifact signal before any blanking is initiated, and the sensing channel will therefore remain active even post-stimulation should no artifacts be detected, the instant application is found to be patentably distinct from the most pertinent prior art of record as disclosed in Fischell et al. and Pless. Allowability of the dependent claims follows from the allowability of the independent claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

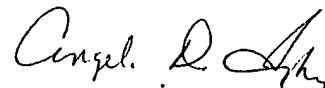
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Flory whose telephone number is (571) 272-6820. The examiner can normally be reached on M - F 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher A. Flory  
21 September 2006

**George Manuel**  
Primary Examiner



**ANGELA D. SYKES**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**